

(d) The offering circular for the public offering shall state briefly the discounts and commissions to be allowed or paid to dealers in connection with the sale of the unsubscribed shares. Such information may be omitted from the offering circular for any subscription offering, unless the plan of conversion contains the optional provision permitted by § 563b.3(d)(11).

(e) If any shares are to be offered through underwriters, the offering circular for the public offering shall identify any principal underwriter that intends to confirm sales to any accounts over which it exercises discretionary authority and include an estimate of the number of shares so intended to be confirmed. Such information may be omitted from the offering circular for any subscription offering.

Instructions. 1. Commissions include all cash, securities, contracts, or anything else of value, paid, to be set aside, disposed of, or understandings made with or for the benefit of any persons in which any underwriter or dealer is interested, in connection with the sale of the shares.

2. Only commissions paid by the applicant in cash are to be included in the table. Any other consideration to the underwriters shall be set forth following the table with a reference thereto in the second column of the table. Any finder's fees or similar payments shall be appropriately disclosed.

3. All that is required as to the nature of the underwriters' obligation is whether the underwriters are or will be committed to take and to pay for all of the shares if any are taken, or whether it is merely an agency or "best efforts" arrangement under which the underwriters are required to take and pay for only such shares as they may sell to the public. Conditions precedent to the underwriters' taking the shares, including customary "market outs," need not be described. If a "best efforts" arrangement is used, describe any standby commitments for shares not sold.

(f) If any shares are to be sold by the converting savings association through a direct community marketing, indicate the timing of the offering, the geographical area where the offering will be made, the method to be employed to market the shares, including the frequency and nature of communications or contracts with potential purchasers, any preferences that will be given any such geographical area or class of potential purchasers, and the limitations on purchases by potential purchasers.

PART 563c—ACCOUNTING REQUIREMENTS

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AUTHORITY: 12 U.S.C. 1462a, 1463, 1464; 15 U.S.C. 78c(b), 78m, 78n, 78w.

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Subpart A—Form and Content of Financial Statements

§ 563c.1 Form and content of financial statements.

(a) This subpart A states the requirements as to form and content of financial statements included by a savings association in the following documents. However, the Office's regulations governing the applicable documents specify the actual financial statements that are to be included in that document.

(1) Any proxy statement or offering circular required to be used in connection with a conversion under part 563b of this chapter.

(2) Any offering circular or nonpublic offering materials required to be used in connection with an offer or sale of securities under part 563g of this chapter.

(3) Any filing under the Securities Exchange Act of 1934, 15 U.S.C. 78a *et seq.*, made pursuant to the requirements of part 563d of this chapter.

(b) Except as otherwise provided by the Office by rule, regulation, or order

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made specifically applicable to financial statements governed by this section, financial statements shall:

(1) Be prepared and presented in accordance with generally accepted accounting principles;

(2) Comply with subpart C of this part;

(3) Consistent with the provisions of this subpart, comply with articles 1, 2, 3, 4, 10, and 11 of Regulation S-X adopted by the Securities and Exchange Commission (17 CFR 210.1–210.4, 210.10, and 210.11).

(4) Be audited, when required, by an independent auditor in accordance with the standards imposed by the American Institute of Certified Public Accountants.

(c) The term “financial statements” includes all notes to the statements and related schedules.

§ 563c.2 Definitions.

(See also 17 CFR 210.1–02.)

(a) *Registrant*. The term “registrant” means an applicant, a savings association, or any other person required to prepare financial statements in accordance with this subpart.

(b) *Significant subsidiary*. The term “significant subsidiary” means a subsidiary, including its subsidiaries, which meets any of the following conditions:

(1) The association’s and its other subsidiaries’ investments in and advances to the subsidiary exceed 10 percent of the total assets of the association and its subsidiaries consolidated as of the end of the most recently completed fiscal year (for purposes of determining whether financial statements of a business acquired or to be acquired in a business combination accounted for as a pooling of interests are required pursuant to 17 CFR 210.3–05, this condition is also met when the number of common shares exchanged by the association exceeds 10 percent of its total common shares outstanding at the date the combination is initiated); or

(2) The association’s and its other subsidiaries’ proportionate share of the total assets (after intercompany eliminations) of the subsidiary exceeds 10 percent of the total assets of the association and its subsidiaries consoli-

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dated as of the end of the most recently completed fiscal year; or

(3) The association’s and its other subsidiaries’ equity in the income from continuing operations before income taxes, extraordinary items, and cumulative effect of a change in accounting principle of the subsidiary exceeds 10 percent of such income of the association and its subsidiaries consolidated for the most recently completed fiscal year.

COMPUTATIONAL NOTE: For purposes of making the prescribed income test the following guidance should be applied:

1. When a loss has been incurred by either the parent or its consolidated subsidiaries or the tested subsidiary, but not both, the equity in the income or loss of the tested subsidiary should be excluded from the income of the association and its subsidiaries consolidated for purposes of the computation.

2. If income of the association and its subsidiaries consolidated for the most recent fiscal year is at least 10 percent lower than the average of the income for the last five fiscal years, such average income should be substituted for purposes of the computation. Any loss years should be omitted for purposes of computing average income.

§ 563c.3 Qualification of public accountant.

(See also 17 CFR 210.2–01.)

The term “qualified public accountant” means a certified public accountant or licensed public accountant certified or licensed by a regulatory authority of a State or other political subdivision of the United States who is in good standing as such under the laws of the jurisdiction where the home office of the registrant to be audited is located. Any person or firm who is suspended from practice before the Securities and Exchange Commission or other governmental agency is not a “qualified public accountant” for purposes of this section.

[54 FR 49627, Nov. 30, 1989, as amended at 60 FR 66718, Dec. 26, 1995]

§ 563c.4 Condensed financial information [Parent only].

(a) The information prescribed by Schedule III required by section IV of § 563c.102 of this part shall be presented in a note to the financial statements when the restricted net assets (17 CFR